



House of Representatives

General Assembly

File No. 38

February Session, 2022

Substitute House Bill No. 5215

House of Representatives, March 21, 2022

The Committee on Banking reported through REP. DOUCETTE of the 13th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MORTGAGE RELEASES AND REQUIRING MORTGAGEES TO ACCEPT CERTAIN FORMS OF PAYMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 49-8 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2022*):

4 (a) (1) The mortgagee or a person authorized by law to release the
5 mortgage shall execute and deliver or cause to be delivered to the town
6 clerk of the town in which the real estate is situated or, if so requested
7 in writing by the mortgagor or a legal representative of the mortgagor,
8 to the mortgagor or the legal representative of the mortgagor, a release
9 to the extent of the satisfaction tendered before or against receipt of the
10 release: [(1)] (A) Upon the satisfaction of the mortgage; [(2)] (B) upon a
11 bona fide offer to satisfy the mortgage in accordance with the terms of
12 the mortgage deed upon the execution of a release; [(3)] (C) when the
13 parties in interest have agreed in writing to a partial release of the
14 mortgage where that part of the property securing the partially satisfied

15 mortgage is sufficiently definite and certain; or [(4)] (D) when the
16 mortgagor has made a bona fide offer in accordance with the terms of
17 the mortgage deed for such partial satisfaction on the execution of such
18 partial release.

19 (2) If a release has not been delivered to the mortgagor or legal
20 representative of the mortgagor in accordance with subdivision (1) of
21 this subsection, the mortgagee or such person shall deliver a copy of
22 such release to the mortgagor at or about the same time such release is
23 delivered to the town clerk.

24 Sec. 2. Section 49-8a of the general statutes is repealed and the
25 following is substituted in lieu thereof (*Effective October 1, 2022*):

26 (a) For the purposes of this section and section 49-10a:

27 (1) "Mortgage loan" means a loan secured by a mortgage on one, two,
28 three or four family residential real property located in this state,
29 including, but not limited to, a residential unit in any common interest
30 community, as defined in section 47-202.

31 (2) "Person" means an individual, corporation, limited liability
32 company, business trust, estate, trust, partnership, association, joint
33 venture, government, governmental subdivision or agency, or other
34 legal or commercial entity.

35 (3) "Mortgagor" means the grantor of a mortgage.

36 (4) "Mortgagee" means the grantee of a mortgage; provided, if the
37 mortgage has been assigned of record, "mortgagee" means the last
38 person to whom the mortgage has been assigned of record; and
39 provided further, if the mortgage has been serviced by a mortgage
40 servicer, "mortgagee" means the mortgage servicer.

41 (5) "Mortgage servicer" means the last person to whom the mortgagor
42 has been instructed by the mortgagee to send payments of the mortgage
43 loan. The person who has transmitted a payoff statement shall be
44 deemed to be the mortgage servicer with respect to the mortgage loan

45 described in that payoff statement.

46 (6) "Attorney-at-law" means any person admitted to practice law in
47 this state and in good standing.

48 (7) "Title insurance company" means any corporation or other
49 business entity authorized and licensed to transact the business of
50 insuring titles to interests in real property in this state.

51 (8) "Institutional payor" means any bank or lending institution that,
52 as part of making a new mortgage loan, pays off the previous mortgage
53 loan.

54 (9) "Payoff statement" means a statement of the amount of the unpaid
55 balance on a mortgage loan, including principal, interest and other
56 charges properly assessed pursuant to the loan documentation of such
57 mortgage and a statement of the interest on a per diem basis with
58 respect to the unpaid principal balance of the mortgage loan.

59 (b) If a mortgagee fails to execute and deliver a release of mortgage
60 to the mortgagor or to the mortgagor's designated agent within sixty
61 days from receipt by the mortgagee of payment of the mortgage loan (1)
62 in accordance with the payoff statement furnished by the mortgagee, or
63 (2) if no payoff statement was provided pursuant to a request made
64 under section 49-10a, in accordance with a good faith estimate by the
65 mortgagor of the amount of the unpaid balance on the mortgage loan
66 using (A) a statement from the mortgagee indicating the outstanding
67 balance due as of a date certain, and (B) a reasonable estimate of the per
68 diem interest and other charges due, any attorney-at-law or duly
69 authorized officer of either a title insurance company or an institutional
70 payor may, on behalf of the mortgagor or any successor in interest to the
71 mortgagor who has acquired title to the premises described in the
72 mortgage or any portion thereof, execute and cause to be recorded in
73 the land records of each town where the mortgage was recorded, an
74 affidavit which complies with the requirements of this section.

75 (c) An affidavit pursuant to this section shall state that:

76 (1) The affiant is an attorney-at-law or the authorized officer of a title
77 insurance company, and that the affidavit is made on behalf of and at
78 the request of the mortgagor or the current owner of the interest
79 encumbered by the mortgage;

80 (2) The mortgagee has provided a payoff statement with respect to
81 the mortgage loan or the mortgagee has failed to provide a payoff
82 statement requested pursuant to section 49-10a;

83 (3) The affiant has ascertained that the mortgagee has received
84 payment of the mortgage loan (A) in accordance with the payoff
85 statement, or (B) in the absence of a payoff statement requested
86 pursuant to section 49-10a, in accordance with a good faith estimate by
87 the mortgagor of the amount of the unpaid balance on the mortgage
88 loan calculated in accordance with subdivision (2) of subsection (b) of
89 this section, as evidenced by a bank check, certified check, attorney's
90 clients' funds account check or title insurance company check, which has
91 been negotiated by the mortgagee or by other documentary evidence of
92 such receipt of payment by the mortgagee, including a confirmation of
93 a wire transfer;

94 (4) More than sixty days have elapsed since payment was received by
95 the mortgagee; and

96 (5) At least fifteen days prior to the date of the affidavit, the affiant
97 has given the mortgagee written notice by registered or certified mail,
98 postage prepaid, return receipt requested, of intention to execute and
99 cause to be recorded an affidavit in accordance with this section, with a
100 copy of the proposed affidavit attached to such written notice; and that
101 the mortgagee has not responded in writing to such notification, or that
102 any request for additional payment made by the mortgagee has been
103 complied with at least fifteen days prior to the date of the affidavit.

104 (d) Such affidavit shall state the names of the mortgagor and the
105 mortgagee, the date of the mortgage, and the volume and page of the
106 land records where the mortgage is recorded. The affidavit shall provide
107 similar information with respect to every recorded assignment of the

108 mortgage.

109 (e) The affiant shall attach to the affidavit (1) photostatic copies of the
110 documentary evidence that payment has been received by the
111 mortgagee, including the mortgagee's endorsement of any bank check,
112 certified check, attorney's clients' funds account check, title insurance
113 company check, or confirmation of a wire transfer, and (2) (A) a
114 photostatic copy of the payoff statement, or (B) in the absence of a payoff
115 statement requested pursuant to section 49-10a, a copy of a statement
116 from the mortgagee that is in the possession of the mortgagor indicating
117 the outstanding balance due on the mortgage loan as of a date certain
118 and a statement setting out the mortgagor's basis for the estimate of the
119 amount due, and shall certify on each that it is a true copy of the original
120 document.

121 (f) Such affidavit, when recorded, shall constitute a release of the lien
122 of such mortgage or the property described therein.

123 (g) The town clerk shall index the affidavit in the name of the original
124 mortgagee and the last assignee of the mortgage appearing of record as
125 the grantors, and in the name of the mortgagors and the current record
126 owner of the property as grantees.

127 (h) Any person who causes an affidavit to be recorded in the land
128 records of any town in accordance with this section having actual
129 knowledge that the information and statements therein contained are
130 false shall be guilty of a class D felony.

131 (i) A mortgagee shall accept as payment tendered for satisfaction or
132 partial satisfaction of a mortgage a bank check, certified check,
133 attorney's clients' funds account check, title insurance company check,
134 wire transfer or any other form of payment authorized under federal
135 law.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2022	49-8(a)
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Sec. 2	October 1, 2022	49-8a
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BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which adds certain requirements for mortgagees, does not result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5215*****AN ACT CONCERNING MORTGAGE RELEASES AND REQUIRING MORTGAGEES TO ACCEPT CERTAIN FORMS OF PAYMENT.*****SUMMARY**

This bill specifies to whom a mortgage release must be delivered by a mortgagee (lender), or by a person authorized to release a mortgage, when:

1. the mortgage is paid off;
2. a bona fide offer exists to pay off the mortgage or part of the mortgage, in accordance with its terms upon a release; or
3. the interested parties have a written agreement to partially release the mortgage.

The bill requires the release be sent to the mortgagor (borrower) or mortgagor's legal representative if either makes a written request for it. Otherwise, the release must be delivered to the town clerk of the town where the property is situated, and a copy must be sent to the mortgagor at or about the same time as the delivery to the town clerk.

The bill separately requires a mortgagee to accept as payment or partial payment to satisfy a mortgage any of the following: a bank or certified check; an attorney's clients' funds check; a title insurance company check; a wire transfer; or any other payment authorized by federal law. (It is unclear, given the bill's placement of this requirement in an existing statute (CGS § 49-8a), whether it applies to all mortgages or "mortgage loans" as defined in the statute, which are limited to mortgages on up to four family residential properties.)

EFFECTIVE DATE: October 1, 2022

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/08/2022)